IN THE HIGH COURT OF JUDICATURE AT BOBBY

CIVIL APPELLATE JURISDICTION

WRIT PETITION No. 3177 OF 1999

Netaji Shikshan Sanstha & Anr. Petitioners

Vs.

The State of Maharashtra
& Ors. Respondents

Mr. A. M. Joshi, Advocate for the petitioner.

Mr. Kakade, AGP for Respondent No.1 to 3.

CORAM: F.I. REBELLO,
AND
R. V. MORE, JJ.

DATE : JANUARY 10, 2007.

P.C.

. The petitioner Society is running a private school. The school is recognised. The Society is registered under the provisions of Bombay Public Trust Act & the Societies Registration Act.

. The petitioner's prayer in the petition is to direct respondent no.4 to grant approval and release salary grant for the back wages payable to Mrs. Nangare Saraswati Dattatraya from the date of termination, till actual reinstatement in service from the oustanding amounts payable to the petitioner.

3. The petitioner had terminated the services of Mrs. Nangare Saraswati Dattatray on 12-6-1995. She preferred an appeal. The teacher was reinstated by order dated 23-2-1998. It is the case of the petitioner that considering the Government Circular dated 14-3-1998, the respondent State was bound to release the salary grants for the period from 12-6-1995 till reinstatement to Mrs. Nangare Saraswati Dattatraya. The learned counsel relied on the Circular of 14th March 1998.

4. We have heard the counsel for the parties. From the Circular of 14th March 1998 we find that there are two Government Resolutions of 29-5-1973 and 13th July 1973 by which in the event the following two criteria is satisfied the salary grants can be released. They are as under:

> i) That the salary and allowances of the substitute if any appointed by the Management in place of the employee whose services were terminated have not been paid by the Deptt.

ii) That the payment of due arrears of salary and allowances of the employee who has been reinstated would not involve any additional expenditure to Govt. over and above the expenditure which would in any case have incurred on the salary etc. to the total teaching and non-teaching staff admissible to the school, on the basis of the total teaching workload and other norms prescribed in that behalf by Govt.

5. In the instant case, by the interim order the salary grants were released, subject to final order in this petition dated 26th July 1999.

6. It is the case of petitioner that they have not received salary grants for any other teacher in place of Mrs. Nangare Saraswati Dattatraya and consequently, the respondent State was bound to release the grants of Mrs. Nangare Saraswati Dattatraya for the period from 12-6-1995 till the date of reinstatement. We find that the submissions made on behalf of the petitioner would be correct in the light of that following order is passed.

_O_R_D_E_R_

i) The respondents are directed to consider the two aforesaid conditions. If the petitioner satisfies the said conditions, then to treat the grant already released as salary grant of Mrs. Nangari Saraswati Dattatraya. In the event petitioner does not meet the said requirement, it would be open for the petitioner to pass such orders in respect of grant amounts already paid.

ii) Rule made absolute accordingly. There shall be no orders as to costs.

[R.V. MORE,J.] **[F. I. REBELLO,J.]**